

Kerala Gazette No. 29 dated 21st July 2015.

PART I

Section i



GOVERNMENT OF KERALA

Law (Legislation–Publication) Department

NOTIFICATION

No. 14304/Leg.Pbn.2/2015/Law.

Dated, Thiruvananthapuram, 23rd June, 2015.

The following Ordinance, promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section I dated the 15th day of June, 2015 is hereby republished for general information.

By order of the Governor,

A. C. FRANCIS,
*Joint Secretary,
Law Department.*

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 15th June, 2015/Jyaistha 25, 1937 (Saka)

THE NEGOTIABLE INSTRUMENTS (AMENDMENT)

ORDINANCE, 2015

(No. 6 OF 2015)

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

AN

ORDINANCE

further to amend the Negotiable Instruments Act, 1881.

WHEREAS the Negotiable Instruments (Amendment) Bill, 2015 has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Negotiable Instruments (Amendment) Ordinance, 2015.

(2) It shall come into force at once.

2. Amendment of section 6.—In the Negotiable Instruments Act, 1881 (26 of 1881) (hereinafter referred to as the principal Act), in section 6,—

(i) in *Explanation I*, for clause (a), the following clause shall be substituted, namely:—

‘(a) “a cheque in the electronic form” means a cheque drawn in electronic form by using any computer resource and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be;’;

(ii) after *Explanation II*, the following *Explanation* shall be inserted, namely:—

‘Explanation III.—For the purposes of this section, the expressions “asymmetric crypto system”, “computer resource”, “digital signature”, “electronic form” and “electronic signature” shall have the same meanings respectively assigned to them in the Information Technology Act, 2000 (21 of 2000).’

3. Amendment of section 142.—In the principal Act, section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation.—For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.”.

4. Validation for transfer of pending cases.—In the principal Act, after section 142, the following section shall be inserted, namely:—

“142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any judgment, decree, order or directions of any court, all cases arising out of section 138 which were pending in any court, whether filed before it, or transferred to it, before the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015 shall be transferred to the court having jurisdiction under sub-section (2) of section 142, as if that sub-section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1), and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were ‘delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142 before which the first case was filed and is pending, as if that sub-section had been in force at all material times.”.

PRANAB MUKHERJEE,

President.

DR. MUKULITA VIJAYAWARGIYA,

Additional Secretary to the Government of India.